

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

GARY T. SMITH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:13-CV-965-SNLJ
	)	
UNITED PARCEL SERVICE, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon the application of Gary T. Smith for leave to commence this action without payment of the required filing fee. Upon consideration of the financial information provided with the application, the undersigned finds that plaintiff is financially unable to pay any portion of the filing fee. As such, the Court will grant plaintiff's motion for leave to proceed in forma pauperis [Doc. #2].

Plaintiff brings this action pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2000e-17. In addition to United Parcel Service ("UPS"), plaintiff names Stan Roux (the UPS director), and Anthony Taylor (the UPS division manager) as defendants in this action.

Title VII imposes liability only against an "employer" who engages in certain discriminatory practices. As such, plaintiff's claims against United Parcel Service are

not subject to dismissal at this time. As to the UPS director and division manager, however, the United States Court of Appeals for the Eighth Circuit has squarely held that “supervisors may not be held individually liable under Title VII.” Bonomolo-Hagen v. Clay Central-Everly Community School District, 121 F.3d 446, 447 (8th Cir. 1997)(citing Spencer v. Ripley County State Bank, 123 F.3d 690, 691-92 (8th Cir. 1997)(per curiam); see Bales v. Wal-Mart Stores, Inc., 143 F.3d 1103, 1110-11 (8<sup>th</sup> Cir. 1998). Thus, as to Stan Roux and Anthony Taylor, the complaint will be dismissed, without prejudice, as legally frivolous.

Therefore,


**IT IS HEREBY ORDERED** that plaintiff’s motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**. See 28 U.S.C. § 1915(a)(1).

**IT IS FURTHER ORDERED** that the Clerk shall issue process or cause process to be issued upon the complaint as to United Parcel Service.

**IT IS FURTHER ORDERED** that, as to defendants Stan Roux and Anthony Taylor, the Clerk shall not issue process or cause process to be issued, because the complaint is legally frivolous and fails to state a claim or cause of action. See 28 U.S.C. § 1915(e)(2)(B).

A separate Order of Partial Dismissal shall accompany this Memorandum and Order.

Dated this 18th day of July , 2013.

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**UNITED STATES DISTRICT JUDGE**